

07-22409.oe

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA**
Miami Division

Case Number: 07-22409-CIV-COOKE-BROWN

INXX, INC.,

Plaintiff,

vs.

WESTERNBANK PUERTO RICO, et al,

Defendants.

ORDER GRANTING MOTION TO QUASH

THIS MATTER is before the Court on W Holding Company, Inc.'s ("WHI") Motion to Quash... (D.E. 77). The Court has considered the motion, the response, the reply, and all pertinent materials in the file.

This motion concerns a subpoena of records and documents from Deloitte & Touche LLP ("Deloitte") who was hired to assist in the investigation relevant to the issues in presently pending litigation between the parties. Plaintiff acknowledges that Puerto Rican law, specifically P.R. Rule of Evidence 25-A, L.P.R.A. Ap. IV R 25-A ("Rule 25-A") provides protection for "confidential communications" between an accountant and client. Although not every category of requested items references privileged documents, the Subpoena at issue does request the production of items which clearly do fall within the accountant-client privilege.

The Court rejects Plaintiff's argument that because WHI's Chairman "publicly referenced" that Deloitte has a "forensic audit" issued by KPMG, WHI somehow waived the accountant-client privilege. The article referenced by Plaintiff does not indicate that the substance of any confidential communications was disclosed. See In re Hillsborough Holdings Corp., 176 B.R. 223, 237-38 (M.D.

Fla. 1994).

The Court being otherwise fully advised in the premises, it is hereby **ORDERED AND ADJUDGED** that the Motion to Quash be and the same is hereby **GRANTED**.

DONE AND ORDERED in Chambers at Miami, Florida, this ^{20th} day of February, 2008.



STEPHEN T. BROWN
UNITED STATES MAGISTRATE JUDGE

cc: Honorable Marcia G. Cooke
Counsel of record